



## State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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STATE EMPLOYEES ASSOCIATION :  
OF NEW HAMPSHIRE, SEIU LOCAL :  
1984 :  
Complainant :  
v. :  
STATE OF NEW HAMPSHIRE, :  
STATE NEGOTIATING COMMITTEE :  
Respondent :

CASE NO. S-0330:4  
DECISION NO. 97-119

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### APPEARANCES

Representing State Employees Association of New Hampshire:

Ward P. Freeman, Negotiations Director

Representing State of New Hampshire Negotiating Committee:

Thomas F. Manning, Chief Negotiator

Also appearing:

Louise R. Paquette, NH Veterans Home  
Brian Jones, SEA Chapter 63  
Richard Allen. SEA Chapter 63  
Lisa A. Currier, DOC  
Lisa Angelini, DOC  
John Vinson, DOC

### BACKGROUND

The State Employees Association of New Hampshire, SEIU, Local 1984 (Association) filed unfair labor practice (ULP)

charges against the State of New Hampshire, State Negotiating Committee (State) on November 4, 1997 alleging violations of RSA 273-A:5 I (e) and (h) relating to refusal to bargain and breach of contract for failing to pay agreed upon clothing allowances for certain employees of the Probation and Parole sub-unit and the Veterans Home sub-unit. The State of New Hampshire filed its answer on November 10, 1997 after which this matter was heard by the PELRB on December 9, 1997.

#### FINDINGS OF FACT

1. The State of New Hampshire is a "public employer" of certain employees in the Probation and Parole and Veterans Home sub-bargaining units within the meaning of RSA 273-A:1 X.
2. The State Employees Association of New Hampshire, SEIU Local 1984 is the duly certified bargaining agent for employees so employed.
3. The State and the Association are parties to an overall collective bargaining agreement (CBA) for the period July 1, 1997 through June 30, 1999. Provisions of that overall agreement pertaining only to certain groups or types of employees are resolved through specified sub-unit negotiations.
4. On November 14, 1996, the Association entered into negotiations with the State for the so-called sub-unit issues relating to the Department of Corrections, Probation/Parole Officer bargaining unit.
5. On March 25, 1997, after a series of seven (7) negotiating meetings, agreement was reached on the entire scope of negotiated issues for the Probation/Parole Officer sub-unit. One of the negotiated provisions was a new clothing and equipment allowance.
6. The membership of the Probation/Parole Officer sub-unit ratified the negotiated provisions on April 29, 1997. Their clothing and equipment allowance remains unpaid as of the date of the PELRB hearing.
7. On November 15, 1996, the SEA entered into negotiations with the State for the so-called sub-unit issues

relating to the Veterans Home bargaining unit.

8. On March 25, 1997, after a series of five (5) negotiating meetings, agreement was reached on the entire scope of negotiated issues for the Veterans Home sub-unit. One of the negotiated provisions was an increase in the existing uniform allowance from \$90.00 per year to \$120.00 per year.
9. The membership of the Veterans sub-unit ratified the negotiated provisions on May 12, 1997. Between the date of the filing of the ULP and the date of the hearing before the PELRB, members of this sub-unit received payment for the increase in their uniform allowance.
10. The parties are not in dispute that they negotiated and agreed upon the uniform/clothing allowance benefits referenced herein. That agreement is manifested in a memo from the State Negotiating Committee to the Joint Committee on Employee Relations of the NH General Court dated March 3, 1997 and identified as Attachment 3 to the Association's complaint. Between the date of that memo and the filing of the pending complaint, unidentified persons in the employ of the State questioned the sufficiency of the language used in HB 2, the "trailer bill," to authorize the payment of the foregoing uniform/clothing benefit. According to State Negotiator Manning, sufficient funds were authorized but there is an outstanding issue about how they were categorized.
11. The Association is seeking relief through a finding that the State did not ensure that necessary funds were "properly appropriated" and did not pay these benefits as agreed to during negotiations. The State Negotiator has represented that the State will attempt to correct any deficiency in the "trailer bill" when the Legislature reconvenes in January.

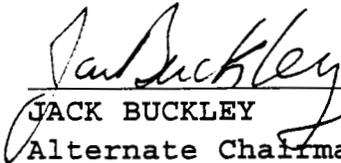
DECISION AND ORDER

First we dismiss the ULP as it pertains to Veterans Home employees. Their benefits have been paid and they no longer have standing to complain.

Second, as for the entitlement due the Probation and Parole employees, we commend the parties for their candor and cooperation in dealing with each other. We cannot ignore that the parties have an agreement on the Probation and Parole sub-unit clothing and equipment allowance and that it has not been paid. It is uncontested that such an agreement was reached, signed (or otherwise memorialized in writing, such as by Attachment C) and appropriated, albeit there is an issue as to the sufficiency of that appropriation. Nevertheless, there is enough to constitute an agreement and enough to constitute a breach of contract when the parties have not adhered to that agreement. There has been a violation of RSA 273-A:5 I (h) which the State is directed to remedy by paying the promised level of benefits without further delay.

So ordered.

Signed this 19th day of December, 1997.

  
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JACK BUCKLEY  
Alternate Chairman

By unanimous vote. Alternate Chairman Jack Buckley presiding.  
Members E. Vincent Hall and William F. Kidder present and voting.